

Proposed Part 61 Rules

- (c) **Dominant interexchange carriers subject to price cap regulation shall exclude the following offerings from their price cap baskets:**
 - (1) **Special construction services relating to services in § 61.3342 (b)(1), (b)(2), and (b)(3);**
 - (2) **All other special construction services;**
 - (3) **American Telephone and Telegraph Company Tariff F.C.C. No. 11 services;**
 - (4) **American Telephone and Telegraph Company Tariff F.C.C. No. 12 services;**
 - (5) **American Telephone and Telegraph Company Tariff F.C.C. No. 16 services;**
 - (6) **Services subject to below-the-line accounting;**
 - (7) **International private line and record carrier services;**
 - (8) **Contract-based tariffs;**
 - (9) **Services removed from price cap regulation pursuant to the Report and Order in Docket No. 90-132;**
 - (10) **Promotional offerings for services in § 61.3342 (b)(1), (b)(2), and (b)(3);**
 - (11) **All other promotional offerings;**
 - (12) **Custom tariff services;**
 - (13) **Readyline 800 service;**
 - (14) **AT&T 800 service;**
 - (15) **Megacom 800 service; and**
 - (16) **Other 800 services;**

Proposed Part 61 Rules

- (d) ~~Each local exchange carrier subject to price cap regulation shall establish baskets as follows:~~²
- (1) ~~A basket for the common line interstate access elements as described in §§60.103, 60.104, 60.105, and 60.115;~~
 - (2) ~~A basket for traffic sensitive switched interstate access elements;~~
 - (3) ~~A basket for special access services as described in §§60.114, and~~
 - (4) ~~to the extent that a local exchange carrier specified in § 61.41(a)(2) or (3) offers interstate interexchange services that are not classified as access services for the purpose of Part 60, such exchange carrier shall establish a fourth basket for such services.~~
- (e) ~~1) The traffic sensitive switched interstate access basket shall contain such services as the Commission shall permit or require, including the following service categories:~~³
- (i) ~~local switching, as described in § 60.106;~~
 - (ii) ~~information, as described in § 60.109;~~
 - (iii) ~~entrance facilities, direct trunked transport, and dedicated signalling transport, as described in §§ 60.110, 60.112 and 60.125, respectively of this chapter.~~
 - (iv) ~~Tandem-switched transport, as described in § 60.111 of this chapter.~~
 - (v) ~~Interconnection charge, as described in § 60.124 of this chapter.~~

² Moved to new Part Y -- Pricing. See § Y.202 -- Price Cap Baskets and Market Area Categories for Local Exchange Carriers.

³ Id.

Proposed Part 61 Rules

- (vi) ~~Data base access, including basic 800 data base access, call validation, POTS translation, alternate POTS translation, multiple carrier routing, and traffic routing services, as described in Provision of Access for 800 Service, Second Report and Order, 8 FCC Red ____, CC Docket No. 86-10, FCC 93 ____ (1993) and other such services as the Commission shall permit or require; and~~
- (vii) ~~billing name and address, as described in § 69.128 of this chapter.~~
- (2) ~~The basket for special access services shall contain such services as the Commission shall permit or require, including the following service categories:~~
 - (i) ~~Voice grade, WATS, metallic, and telegraph services;~~
 - (ii) ~~Audio and video services;~~
 - (iii) ~~High capacity and DDS services; and~~
 - (iv) ~~Wideband data and wideband analog services.~~
- (f) ~~Each local exchange carrier subject to price cap regulation shall exclude from its price cap baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.⁴~~
- (g) ~~New services, other than those within the scope of paragraphs (c) and (f) of this section, must be included in the affected basket at the first annual price cap tariff filings following completion of the base period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service categories within the assigned basket, they shall be so included at the first annual price cap tariff filing following completion of the period in which they are introduced.⁵~~

⁴ Moved to new Part Y -- Pricing. See § Y.202(c).

⁵ Moved to new Part Y -- Pricing. See § Y.202(d).

Proposed Part 61 Rules

§ 61.3444 Adjustments to the PCI for dominant interexchange carriers.

- (a) Dominant interexchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year access and exogenous cost changes.
- (b) Subject to paragraph (d) of this section, adjustments to each PCI of dominant interexchange carriers subject to price cap regulation shall be made pursuant to the following formula:

$$PCI_t = PCI_{t-1} [1 + w(GNP-PI - X) + \Delta Y/R + \Delta Z/R]$$

where:

GNP-PI = the percentage change in the GNP-PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X = productivity factor of 3.0%,

Y = (new access rate - access rate at the time the PCI was updated to PCI_{t-1}) x (base period demand),

Z = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1} , measured at base period level of operations,

R = base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1} .

w = $\frac{R - (access\ rate\ in\ effect\ at\ the\ time\ the\ PCI\ was\ updated\ to\ PCI_{t-1} \times base\ period\ demand) + \Delta Z}{R}$, all divided by R,

PCI_t = the new PCI value, and

PCI_{t-1} = the immediately preceding PCI value.

Proposed Part 61 Rules

- (c) The exogenous cost changes represented by the term " ΔZ " in the formula detailed in paragraph (b), shall be limited to those cost changes that the Commission shall permit or require, and include those caused by
 - (1) The completion of the amortization of depreciation reserve deficiencies;
 - (2) Changes in the Uniform System of Accounts;
 - (3) Changes in the Separations Manual;
 - (4) The reallocation of investment from regulated to nonregulated activities pursuant to § 64.901; and
 - (5) Such tax law changes and other extraordinary exogenous cost changes as the Commission shall permit or require. These exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Exogenous cost changes thus attributed to price cap services shall be further apportioned on a cost-causative basis among price cap baskets.
- (d) In calculating the " ΔY " variable in the formula detailed in paragraph (b) of this section:
 - (i) the net change in total non-traffic sensitive access costs for all capped services (in all baskets), calculated at base period demand, shall be allocated among the baskets in proportion to each basket's share of total base period non-traffic sensitive minutes of access (both originating and terminating);
 - (ii) the net change in total traffic sensitive access costs for all capped services (in all baskets), calculated at base period demand, shall be allocated among the baskets in proportion to each basket's share of total base period traffic sensitive minutes of access; and
 - (iii) changes in special access costs in each basket, calculated at base period demand, shall be assigned directly to the baskets in which such costs are incurred.

Proposed Part 61 Rules

- (e) In calculating the "w" variable in the formula detailed in paragraph (b), the access costs that must be subtracted from the "R" variable shall be apportioned among the baskets in a manner that is consistent with the methodology provided in paragraph (d) for calculating the " ΔY " in each basket.
- (f) The " $w(\text{GNP-PI} - X)$ " component of the adjustment made in connection with the annual price cap filing.
- (g) The exogenous cost changes and changes in access costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraph (b) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced.
- (h) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to § 61.3546) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.

~~§ 61.45 Adjustments to the PCI for local exchange carriers.~~⁶

- (a) ~~Local exchange carriers subject to price cap regulation shall file adjustments to the PCI for each basket as part of the annual price cap tariff filing, and shall maintain updated PCIs to reflect the effect of mid-year exogenous cost changes.~~
- (b) ~~Adjustments to local exchange carrier PCIs for the baskets designated in § 61.42(d)(2), (3) and (4) shall be made pursuant to the formula set forth in § 61.44(b), and as further explained in §§ 61.44(e), (f), (g), and (h).~~
 - (1) ~~Notwithstanding the value of X defined in § 61.44(b), the X value applicable to the baskets specified in § 61.42(d)(2) and (3) shall be 3.3%, or 4.3% if the carrier so elects.~~

⁶ The existing Section 61.45 has been moved to the proposed new Part Y-- Pricing. See § Y.203.

Proposed Part 61 Rules

~~(2) For the basket specified in § 61.42(d)(4), the value of X shall be 3%, or 4% if the carrier so elects.~~

~~(c) Subject to paragraph (a) of this section, adjustments to local exchange carrier PCIs for the basket designated in § 61.42(d)(1) shall be made pursuant to the following formula:~~

$$\text{PCI}_t = \text{PCI}_{t-1} [1 + w((\text{GNP PI} - X - (g/2))/(1 + (g/2))) + _Z/R]$$

~~where:~~

~~GNP PI = the percentage change in the GNP PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year;~~

~~X = productivity factor of 3.3%, or 4.3% if the carrier so elects;~~

~~g = the ratio of minutes of use per access line during the base period, to minutes of use per access line during the previous base period, minus 1;~~

~~Z = the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1} , measured at base period level of operations;~~

~~R = base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1} ;~~

~~w = $R + _Z$, all divided by R;~~

~~PCI_t = the new PCI value; and~~

~~PCI_{t-1} = the immediately preceding PCI value.~~

Proposed Part 61 Rules

~~(d) The exogenous cost changes represented by the term "Z" in the formulas detailed in paragraphs (b) and (c), shall be limited to those cost changes that the Commission shall permit or require.~~

~~(d)(1) Subject to further order of the Commission, these exogenous changes shall include cost changes caused by:~~

~~(i) the completion of the amortization of depreciation reserve deficiencies;~~

~~(ii) such changes in the Uniform System of Accounts as the Commission shall permit or require; and~~

~~(iii) changes in the Separations Manual;~~

~~(iv) changes to the level of obligation associated with the Long Term Support Fund and the Transitional Support Fund described in § 69.612;~~

~~(v) the reallocation of investment from regulated to nonregulated activities pursuant to § 64.901;~~

~~(vi) such tax law changes and other extraordinary exogenous cost changes as the Commission shall permit or require, and~~

~~(vii) retargeting the PCI to the level specified by the Commission for carriers whose base year earnings are below the level of the lower adjustment mark.~~

~~(viii) inside wire amortizations.~~

~~(d)(2) Local exchange carriers specified in § 61.41(a)(2) or (a)(3) shall also make such temporary exogenous cost changes as may be necessary to reduce PCIs to give full effect to any sharing of base period earnings required by the sharing mechanism set forth in the Commission's Second Report and Order in Common Carrier Docket No. 87-313, FCC 90-314, adopted September 19, 1990. Such exogenous cost changes shall include interest, computed at the prescribed rate of return, from the day after the end of the period giving rise to the adjustment, to the midpoint of the period when the adjustment is in effect.~~

Proposed Part 61 Rules

- ~~(d)(3) Local exchange carriers specified in § 61.42(a)(2) or (a)(3) shall, in their annual access tariff filing, recognize all exogenous cost changes attributable to modifications during the coming tariff year in the obligations specified in § 61.45(d)(1)(iv) as well as those changes attributable to alterations in their Subscriber Plant Factor and the Dial Equipment Minutes factor, and completions of inside wire amortizations and reserve deficiency amortizations.~~
- ~~(d)(4) Exogenous cost changes shall be apportioned on a cost-causative basis between price cap services as a group, and excluded services as a group. Exogenous cost changes thus attributed to price cap services shall be further apportioned on a cost-causative basis among the price cap baskets.~~
- ~~(e) The " $w(\text{GNPI} - X - (g/2))/(1 + (g/2))$ " component of the PCI formula contained in paragraph (c) shall be employed only in the adjustment made in connection with the annual price cap filing.~~
- ~~(f) The exogenous costs caused by new services subject to price cap regulation must be included in the appropriate PCI calculations under paragraph (c) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced.~~
- ~~(g) In the event that a price cap tariff becomes effective, which tariff results in an API value (calculated pursuant to § 61.46) that exceeds the currently applicable PCI value, the PCI value shall be adjusted upward to equal the API value.~~

§ 61.3546 Adjustments to the API [for Dominant Interexchange Carriers].⁷

- (a) Except as provided in paragraphs (d) and (e) of this section, in connection with any price cap tariff filing proposing rate changes, the carrier must calculate an API for each affected basket pursuant

⁷ A modified version of the existing Section 61.46, which applies exclusively to local exchange carriers, has been created in the new Part Y -- Pricing. See § Y.204 -- Adjustments to the API for Local Exchange Carriers.

Proposed Part 61 Rules

to the following methodology:

$$API_t = API_{t-1} [\sum_i v_i (p_t/p_{t-1})^i]$$

where

API_t = the proposed API value;

API_{t-1} = the existing API value,

p_t = the proposed price for rate element "i"

p_{t-1} = the existing price for rate element and "i"

v_i = the current estimated revenue weight for rate element "i," calculated as the ratio of the base period demand for the rate element "i" priced at the existing rate, to the base period demand for the entire basket of services priced at existing rates.

- (b) New services subject to price cap regulation must be included in the appropriate API calculations under paragraph (a) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced. This index adjustment requires that the demand for the new service during the base period must be included in determining the weights used in calculating the API.
- (c) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the API pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates into rates of equivalent value under the proposed structure, and then the comparison of the existing rates that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.
- ~~(d) In connection with any price cap tariff proposing changes to rates for services in the basket designated in § 61.42(d)(1), the maximum allowable carrier common line (CCL) charges shall be computed pursuant to the following methodology:~~

Proposed Part 61 Rules

$$GCLMOU = CLMOU * (1 + \% \text{ change in CL PCI}) - EUCLMOU * (1 + (g/2))$$

where

~~GCLMOU = the sum of each of the proposed Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use, divided by the sum of all types of base period Carrier Common Line minutes of use,~~

~~CLMOU = the sum of each of the existing maximum allowable Carrier Common Line rates multiplied by its corresponding base period Carrier Common Line minutes of use plus each existing End User Common Line (EUCL) rate multiplied by its corresponding base period lines, divided by the sum of all types of base period Carrier Common Line minutes of use,~~

~~EUCLMOU = proposed End User Common Line rates multiplied by base period lines, and divided by the sum of all types of base period Carrier Common Line minutes of use, and~~

~~g = the ratio of minutes of use per access line during the base period to minutes of use per access line during the previous base period, minus 1.~~

- (e) ~~In addition, for the purposes of § 61.46(d), "Existing Carrier Common Line Rates" shall include existing originating premium, originating non-premium, terminating premium and terminating non-premium rates; and "End User Common Line Rates" used to calculate the CLMOU and the EUCLMOU factors shall include, but not be limited to, Residential and Single Line Business rates, Centrex rates, Limited Pay Telephone Rates, and the Special Access surcharge.~~
- (f) ~~The "1/(1 + (g/2))" component of the GCLMOU formula contained in paragraph (d) shall be employed only in the adjustment made in connection with the annual price cap filing.~~

§ 61.3647 Adjustments to the SBI; pricing bands [for dominant interexchange carriers].⁸

- (a) In connection with any price cap tariff filing proposing changes in the rates of service categories, the carrier must calculate an SBI value for each affected service category pursuant to the following methodology:

$$SBI_t = SBI_{t-1}[\sum_i v_i(p_t/p_{t-1})^i]$$

where

SBI_t = the proposed SBI value,

SBI_{t-1} = the existing SBI value,

p_t = the proposed price for rate element "i"

p_{t-1} = the existing price for rate element "i"

v_i = the current estimated revenue weight for rate element "i," calculated as the ratio of base period demand for rate element "i" priced at the existing rate, to the base period demand for the entire group of rate elements comprising the service category priced at existing rates.

- (b) New services that are added to existing service categories must be included in the appropriate SBI calculations under paragraph (a) of this section beginning at the first annual price cap tariff filing following completion of the base period in which they are introduced. This index adjustment requires that the demand for the new service during the base period must be included in determining the weights used in calculating the SBI.
- (c) In the event that the introduction of a new service requires the creation of a new service category, a new SBI must be established

⁸ A modified version of the existing Section 61.47 has been created in the proposed new Part Y -- Pricing. See § Y.205 -- Adjustments to the MABI; pricing bands for local exchange carriers.

for that service category beginning at the first annual price cap tariff filing following completion of the base period in which the new service is introduced. The new SBI should be initialized at a value of 100, corresponding to the service category rates in effect the last day of the base period, and thereafter should be adjusted as provided in paragraph (a) of this section.

- (d) Any price cap tariff filing proposing rate restructuring shall require an adjustment to the affected SBI pursuant to the general methodology described in paragraph (a) of this section. This adjustment requires the conversion of existing rates in the rate element group into rates of equivalent value under the proposed structure, and then the comparison of the existing rates that have been converted to reflect restructuring to the proposed restructured rates. This calculation may require use of carrier data and estimation techniques to assign customers of the preexisting service to those services (including the new restructured service) that will remain or become available after restructuring.

- (e)(1) Pricing bands shall be established each tariff year for each service category within a basket. Except as provided in paragraph (f) of this section, each band shall limit the pricing flexibility of the service category, as reflected in its SBI, to an annual increase or decrease of five percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year.

- ~~(e)(2) Notwithstanding paragraph (e)(1) of this section, the upper pricing band for the tandem switched transport service category shall limit the annual upward pricing flexibility for this service category, as reflected in its SBI, to two percent, relative to the percentage change in the PCI for the traffic sensitive switched interstate access basket, measured from the last day of the preceding tariff year. The lower pricing band for the tandem switched transport service category shall limit the annual downward pricing flexibility for this service category, as reflected in its SBI, to five percent, relative to the percentage change in the PCI for the traffic sensitive switched interstate access basket, measured from the last day of the preceding tariff year.~~

- ~~(e)(3) Notwithstanding paragraph (e)(1) of this section, the upper pricing band for the interconnection charge service category~~

Proposed Part 61 Rules

~~shall limit the annual upward pricing flexibility for this service category, as reflected in its SBI, to zero percent, relative to the percentage change in the PCI for the traffic sensitive switched interstate access basket, measured from the last day of the preceding tariff year. There shall be no lower pricing band for the interconnection charge.~~

- (f) The upper pricing bands for the evening MTS and night/ weekend MTS service categories shall limit the annual upward pricing flexibility for those service categories, as reflected in their SBIs, to four percent, relative to the percentage change in the PCI for the residential and small business services basket, measured from the last day of the preceding tariff year.
- (g) Dominant interexchange carriers subject to price cap regulation shall calculate a composite average rate for services contained in the residential and small business services basket that are purchased by residential customers. Notwithstanding paragraphs (e) and (f) of this section, the annual upward pricing flexibility for this composite average rate shall be limited to one percent, relative to the percentage change in the PCI for the residential and small business services basket, measured from the last day of the preceding tariff year.
- ~~(h)(1) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(w) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate two separate subindexes: one for the DS1 services offered by such carriers and the other for the DS3 services offered by such carriers. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for each of these two subindexes shall be limited to an annual increase or decrease of five percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.~~
- ~~(h)(2) In addition to the requirements of paragraph (h)(1) of this section, those local exchange carriers subject to price cap regulation that have established density pricing zones pursuant to § 69.123 of this chapter, shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate separate subindexes in each zone for DS1 services, DS3 services, and such other special access services that the Commission may designate by order. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for each of these subindexes shall be limited to an annual increase of five percent or an annual decrease of ten percent;~~

Proposed Part 61 Rules

~~relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.~~

- (i) ~~Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(v) of this chapter shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate a separate subindex for the 800 data base vertical features offered by such carriers. Notwithstanding paragraph (e) of this section, the annual pricing flexibility for this subindex shall be limited to an annual increase or decrease of five percent, relative to the percentage change in the PCI for the traffic sensitive services basket, measured from the last day of the preceding tariff year.~~

§ 61.3748 Transition rules for price cap formula calculations [for dominant interexchange carriers].⁹

- (a) Dominant interexchange carriers subject to price cap regulation shall file initial price cap tariffs May 17, 1989, to be effective July 1, 1989.
- (b)(1) In connection with the initial price cap tariff filing described in paragraph (a) of this section, each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of December 31, 1988.
- (b)(2) The PCI and API for offerings under § 61.3342(b)(3) shall be assigned a value equal to 100, corresponding to rates in effect as of August 1, 1991. Dominant interexchange carriers subject to price cap regulation shall file new business basket index levels with the first business basket tariff transmittal that is filed subsequent to the effective date of this rule.
- (c) ~~Local exchange carriers subject to price cap regulation shall file initial price cap tariffs not later than November 1, 1990, to be~~

⁹ A modified version of the existing Section 61.48 has been created in the proposed new Part Y -- Pricing. See § Y.206 -- Transition rules for price cap formula calculations for local exchange carriers.

Proposed Part 61 Rules

~~effective January 1, 1991.~~

- ~~(d)(1) In connection with the initial price cap filing described in paragraph (c) of this section, each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of July 1, 1990.~~
- ~~(d)(2) Carriers electing price cap regulation under Section 61.41(a)(3) in a year after 1991 shall file initial price cap tariffs not later than April 2 of the year of election, to be effective on July 1 of the year of election. Each PCI, API, and SBI shall be assigned an initial value prior to adjustment of 100, corresponding to the costs and rates in effect as of January 1 of the year of election.~~
- ~~(e) In connection with the initial price cap filing described in paragraph (c) of this section, initial PCI calculations shall be made without adjustment for any changes in inflation or productivity. Annual price cap filings incorporating the full values of the GNP-PI and productivity offsets will commence April 2, 1991, with a scheduled effective date of July 1, 1991.~~
- ~~(f) Local exchange carriers specified in § 61.41(a)(2) or (3) shall, in their initial price cap filings described in paragraph (c) of this section, adjust their PCIs through use of an exogenous cost factor to account for the represcription of the rate of return, effective January 1, 1991.~~
- ~~(g) Local exchange carriers subject to price cap regulation shall set initial rates for entrance facilities, tandem switched transport, direct trunked transport, and dedicated signalling transport, to be filed with an effective date of November 1, 1993, according to the requirements set forth in §§ 69.110, 69.111, 69.112, and 69.125, respectively.~~
- ~~(h) Local exchange carriers subject to price cap regulation shall set the initial upper limit for the interconnection charge, to be filed with an effective date of November 1, 1993, according to the requirements set forth in § 69.124.~~

§ 61.38 Supporting information to be submitted with letters of transmittal.

- (a) **Scope.** This Section applies to dominant carriers other than local exchange carriers whose gross annual revenues exceed \$500,000 for the most recent 12 month period of operations or are estimated to exceed \$500,000 for a representative 12 month period. ~~Local exchange carriers serving 50,000 or fewer access lines in a given study area that are described as subset 3 carriers in § 60.002 of this chapter may submit Access Tariff filings for that study area pursuant to either this section or § 61.39. However, the Commission may require any carrier to submit such information as may be necessary for review of a tariff filing. This section (other than the preceding sentence of this paragraph) shall not apply to tariff filings proposing rates for services identified in § 61.3342(a), (b), (d), (e), and (g), promotional offerings that relate to services subject to price cap regulation, tariff filings proposing rates for services identified in § 61.50, or to tariff filings, other than promotional filings, filed on 14 days notice pursuant to § 61.58(c)(6).~~
- (b) **Explanation and data supporting either changes or new tariff offerings.** The material to be submitted for a tariff change which affects rates or charges or for a tariff offering a new service, must include an explanation of the changed or new matter, the reasons for the filing, the basis of ratemaking employed, and economic information to support the changed or new matter.
- (1) For a tariff change the carrier must submit the following, including complete explanations of the bases for the estimates.
- (i) A cost of service study for all elements for the most recent 12 month period.
 - (ii) A study containing a projection of costs for representative 12 month period.
 - (iii) Estimates of the effect of the changed matter on the traffic and revenues from the service to which the changed matter applies, the carrier's other service classifications, and the carrier's overall traffic and

Proposed Part 61 Rules

revenues. These estimates must include the projected effects on the traffic revenues for the same representative 12 month period used in (ii) above.

- (2) For a tariff filing offering a new service the carrier must submit the following, including complete explanations of the bases for the estimates.
 - (i) A study containing a projection of costs for a representative 12 month period; and
 - (ii) Estimates of the effect of the new matter on the traffic and revenues from the service to which the new matter applies, the carrier's other service classifications, and the overall traffic and revenues. These estimates must include the projected effects on the traffic and revenues for the same representative 12 month period used in (i) above.
- ~~(3) For a tariff filing that introduces or changes a contribution charge for special access and expanded interconnection, as defined in § 69.122 of this chapter, the carrier must submit information sufficient to establish that the charge has been calculated in a manner that complies with the Commission order authorizing the contribution charge.~~
- ~~(4) For a tariff that introduces a system of density pricing zones for special access, as described in § 69.123 of this chapter, the carrier must, before filing its tariff, submit a density pricing zone plan including, inter alia, documentation sufficient to establish that the system of zones reasonably reflects cost-related characteristics, such as the density of total interstate traffic in central offices located in the respective zones, and receive approval of its proposed plan.~~
- (c) Working papers and statistical data.
 - (1) Concurrently with the filing of any tariff change or tariff filing for a service not previously offered, the Chief, Tariff Review Branch, must be provided two sets of working papers containing the information underlying the data applied in response to paragraph (b) of this section, and a clear explanation of how the working papers relate to that

Proposed Part 61 Rules

information.

- (2) All statistical studies must be submitted and supported in the form prescribed in § 1.363 of the Commission's Rules.
- (d) *Form and content of additional material to be submitted with certain rate increases.* In the circumstances set out in (1) and (2) below, the filing carrier must submit all additional cost, marketing and other data underlying the working papers to justify a proposed rate increase. The carrier must submit this information in suitable form to serve as a carrier's direct case in the event the rate increase is set by the Commission for investigation.
 - (1) Rate increases affecting single services or tarified items.
 - (i) A rate increase in any service or tarified item which results in more than \$1 million in additional annual revenues, calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or
 - (ii) A single rate increase in any service or tarified item, or successive rate increases in the same service or tarified item within a 12 month period, either of which results in:
 - (A) At least a 10 percent increase in annual revenues, both from that service or tarified item, and
 - (B) At least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.
 - (2) Rate increases affecting more than one service or tarified item.
 - (i) A general rate increase in more than one service or tarified item occurring at one time, which results in more than \$1 million in additional revenues calculated on the basis of existing quantities in service, without regard to the percentage increase in such revenues; or

Proposed Part 61 Rules

- (ii) A general rate increase in more than one service or tariffed item occurring at one time, or successive general rate increase in the same services or tariffed items occurring within a 12 month period, either of which results in:
 - (A) at least a 10 percent increase in annual revenues from those services or tariffed items, and
 - (B) at least \$100,000 in additional annual revenues, both calculated on the basis of existing quantities in service.
- (e) *Submission of explanation and data by connecting carriers.* If the changed or new matter is being filed by the issuing carrier at the request of a connecting carrier, the connecting carrier must provide the data required by paragraphs (b) and (c) of this section on the date the issuing carrier files the tariff matter with the Commission.
- (f) *Copies of explanation and data to customers.* Concurrently with the filing of any rate for special construction (or special assembly equipment and arrangements) developed on the basis of estimated costs, the offering carrier must transmit to the customer a copy of the explanation and data required by paragraph (b) and (c) of this section.

§ 61.4055 Contract-based tariffs.

- (a) **Scope.** This section shall apply to offerings as defined in § 61.3(nm).
- (b) Composition of contract-based tariffs shall comply with § 61.54(b) through (i).
- (c) **Contract-based tariffs shall include the following:**
 - (1) The term of the contract, including any renewal options;
 - (2) A brief description of each of the services provided under the contract;
 - (3) Minimum volume commitments for each service;

Proposed Part 61 Rules

- (4) The contract price for each service or services at the volume levels committed to by the customers;
 - (5) A general description of any volume discounts built into the contract rate structure; and
 - (6) A general description of other classifications, practices and regulations affecting the contract rate.
- (d) Contract-based tariffs of an interexchange carrier subject to price cap regulation shall not include services included in §§ 61.3342(b), 61.3342(c)(1), (c)(4), and 61.3342(c)(10).
- (e) In addition to the requirements of paragraphs (b) and (c) of this section, each tariff filing by a local exchange carrier which introduces contract-based services within a TMA must be accompanied by a demonstration that the contract-based service will generate a net revenue increase:
 - (1) *For price cap local exchange carriers:* The net revenue increase showing shall be measured against revenues generated from all services subject to price cap regulation; and
 - (2) *For non-price cap local exchange carriers:* The net revenue increase showing shall be measured against revenues generated from all services subject to rate of return regulation.
 - (3) The net revenue increase measured in (1) and (2) shall be calculated based upon present value within 36 months from the date the contract-based service becomes effective.

§ 61.4150 Optional incentive regulation for rate of return local exchange carriers.

- (a) This section shall apply on an elective basis, to local exchange carriers for either the combined transport and switching traffic sensitive rates only or for both the combined transport and switching traffic sensitive and common line rates. Carriers electing the plan for the combined transport and switching traffic sensitive rates only must participate in the Association common line pool. Affiliation with average schedule companies shall not bar

Proposed Part 61 Rules

a carrier from electing optional incentive regulation provided the carrier is otherwise eligible.

- (b) If a ~~local exchange carrier~~telephone company, or any one of a group of affiliated ~~local exchange carrier~~telephone companies, files an optional incentive regulation tariff in one study area, that ~~local exchange carrier~~telephone company and its affiliates, except its average schedule affiliates, must file incentive plan tariffs in all their study areas.
- (c) The following rules apply to ~~local exchange carrier~~telephone companies subject to this section, that become involved in mergers, acquisitions, or similar transactions, except that mergers with, acquisitions by, or other similar transactions with companies subject to price cap regulation, as that term is defined in § Y.2(t)61.3(w), shall be governed by § Y.20161.41(c).
 - (1) Any ~~local exchange carrier~~telephone company subject to this section that is a party to a merger, acquisition, or similar transaction, shall continue to be subject to incentive regulation notwithstanding such transaction.
 - (2) Where a ~~local exchange carrier~~telephone company subject to this section acquires, is acquired by, merged with, or otherwise becomes affiliated with a ~~local exchange carrier~~telephone company that is not subject to this section, the latter ~~local exchange carrier~~telephone company shall become subject to optional incentive plan regulation no later than one year following the effective date of such merger, acquisition, or similar transaction and shall accordingly file optional incentive plan tariffs to be effective no later than that date in accordance with the applicable provisions of this Part 61.
 - (3) Notwithstanding the provisions of paragraph (c)(2) of this section, when a ~~local exchange carrier~~telephone company subject to optional incentive plan regulation acquires, is acquired by, merges with, or otherwise becomes affiliated with a ~~local exchange carrier~~telephone company that qualifies as an "average schedule" company, the latter company may retain its "average schedule" status or become subject to optional incentive plan regulations in accordance with § 61.469-3(i)(3) of this chapter and the requirements referenced in that section.

Proposed Part 61 Rules

- (d) Local exchange carriers that are subject to this section shall not withdraw from optional incentive regulation until the end of two, two-year tariff periods. If a local exchange carrier withdraws from optional incentive plan regulation, it must file company-specific tariffs under the provisions of § 61.3038 for four years before it may again elect to enter incentive plan regulation; such carrier may not participate in the applicable Association tariff during that four years. After the four year period, the carrier may either return to the incentive plan, or remain under § 61.3038 regulation.
- (e) Each local exchange carrier subject to this section shall file tariffs to establish the access categories and baskets of services, including market area categories, as identified in §§ Y.302, Y.303, and Y.304 61.42(d) and (e).
- (f) Each local exchange carrier subject to optional incentive regulation shall exclude from its access categories baskets such services or portions of such services as the Commission has designated or may hereafter designate by order.
- (g) New services, other than those within the scope of paragraph (f) of this section, must be included in the affected access category basket at the first two-year tariff filing following completion of the two-year tariff period in which they are introduced. To the extent that such new services are permitted or required to be included in new or existing service market area categories within the assigned access category basket, they shall be so included at the first two-year tariff filing following completion of the two-year tariff period in which they are introduced.
- ~~(h)(1) Except as provided in paragraph (e)(4) of this section, in connection with any optional incentive plan tariff filings proposing rate changes, the carrier must calculate an index for each affected basket as determined by the Common Carrier Bureau.~~
- ~~(h)(2) In connection with any tariff filed under this section proposing changes to rates for services in the basket designated in paragraph (e) of this section, the maximum allowable increase in the carrier common line (CCL) charge shall be limited to ten percent over the two-year tariff period, where the CCL charge shall be computed as the sum of each of the proposed Carrier Common Line rates multiplied by its corresponding historical period Carrier Common Line minutes of use, divided by the sum of all types of base period Carrier Common Line minutes of use.~~

Proposed Part 61 Rules

- (h) Each filing must be accompanied by supporting materials sufficient to calculate required adjustments to each MABI pursuant to the methodologies provided in § Y.305.**
- (i) Tariff filings proposing rate changes in an IMA or TMA shall include a showing that the requirements of Y.305(e) have been satisfied.**
- (j) Each tariff filing by a local exchange carrier for a service offered in a CMA shall be accompanied by the following:**

 - (1) The term of the service, including any renewal options;**
 - (2) A brief description of each of the services provided;**
 - (3) Minimum volume commitments for each service;**
 - (4) The price for each service or services at the volume levels committed to by the customers;**
 - (5) A general description of any volume discounts built into the rate structure; and**
 - (6) A general description of other classifications, practices and regulations affecting the service rate.**
- (k) In addition to the requirements of paragraph (j) of this section, each tariff filing by a local exchange carrier which introduces a § Y.303 service, other than § Y.303(c) and (d) services, in an IMA or TMA, shall be accompanied by a demonstration that the service will generate a net revenue increase:**

 - (1) The net revenue increase showing shall be measured against revenues generated from all services subject to rate of return regulation.**
 - (2) The net revenue increase measured in (A) shall be calculated based upon present value within 36 months from the date the service becomes effective.**

Proposed Part 61 Rules

- (l) Tariff filings for contract-based services shall be made pursuant to § 61.40.**
- (mi) Rates for a new service in an IMA or TMA that is the same as that offered by a price cap regulated local exchange carrier providing service in an adjacent serving area are deemed presumptively lawful, if the proposed rates, in the aggregate, are no greater than the rate established by the price cap local exchange carrier. Tariff filings made pursuant to this paragraph must include the following:**

 - (1) A brief explanation of why the service is like an existing service offered by a geographically adjacent price cap regulated local exchange carrier; and**
 - (2) Data to establish compliance with this subsection that, in aggregate, the proposed rates for the new service are no greater than those in effect for the same or comparable service offered by that same geographically adjacent price cap regulated local exchange carrier.**
- (nj) The maximum allowable rate of return on earnings based on rates filed by a local exchange carrier subject to this section, shall be determined by adding a fixed increment of one and one-half percent to the carrier's prescribed rate of return. Rates of local exchange carriers subject to this section that result in earnings less than three-quarters percent below the carrier's prescribed rate of return may be retargeted to three-quarters percent below the carrier's prescribed rate of return, in a mid-course tariff filing.**
- (ok) Local exchange carriers filing common line rates under this section must propose Carrier Common Line rates based on the following:**

 - (1) For the first period the Carrier Common Line revenue requirement shall be determined by a cost of service study for the most recent 12 month period. The Carrier Common Line revenue requirement shall be divided by a factor equal to the demand over the preceding 12-month period, multiplied by a factor equal to one plus 1/2 the ratio of the Carrier Common Line minutes of use growth from the initial base period over the proceeding during the most recent 12-month period over Carrier Common Line minutes of use in the preceding 12-month period.**